THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.786 of 2007

Dated:08.02.2007

Between:

B.M.Subbu Swamy and another.

...Petitioners

and

Sarva Siksha Abhyan and others.

...Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.786 of 2007

ORDER:

The case of the two petitioners is that the first petitioner purchased plot Nos.2 and 3 admeasuring 3596 square feet (399.55 square yards) in Survey No.95/2 under registered sale deed, whereas the second petitioner purchased plot No.6 admeasuring 1650 square feet (183.33 square yards) in the same Survey number under registered sale deeds dated 25.01.1978 and 30.01.1978 respectively. The first petitioner also alleges that he has also raised a small room. On 04.01.2007, it is alleged, that the respondents started digging pits for construction without following due process of law. The petitioners then gave a detailed representation, in vain. Therefore, they filed the present Writ Petition seeking an appropriate writ for declaration and for direction to the respondents not to interfere with the petitioners' possession.

At the stage of admission itself, the Mandal Revenue Officer, fifth respondent herein, has filed a counter affidavit. Learned Government Pleader for School Education has obtained instructions and made submissions.

In the counter affidavit filed on behalf of respondents 4 and 5 it is stated that the land admeasuring Ac.1.16 cents in Survey No.95/2 of Akkarampalli Village is a Government

land, and the petitioners are not in possession of the same. It is also alleged that the District Collector passed orders on 27.10.2006 to handover the land to the District Educational Officer for construction of School. Therefore, on 05.11.2006, the land has been handed over. It is further stated that the Village has been selected as model Village under Rajiv Nagar Panchayat, and construction of School building at Satyanarayanapuram is taken up on the land with a view to complete the same before 31.03.2007 before the funds are elapsed. All other allegations are denied.

Learned Counsel for the petitioners disputes various averments in the counter affidavit. He placed reliance on the Encumbrance Certificate dated 04.07.2003 issued by the District Registrar, Tirupati, and the tax receipts issued by the Gram Panchayat in support of the contention that the petitioners are the owners of the land, and they are in possession of the same.

The counter affidavit is served on 01.02.2007, but no reply affidavit is filed. Be that as it is, the documentary evidence placed before this Court in proof of the petition allegations is not correlated properly to the land in Survey No.95/2. On the contrary, the Mandal Revenue Officer has annexed the copy of the Fair Adangal and the copy of the FMB showing the land which is handed over to the District Educational Officer for constructing the School, which would certainly probablise the case of the petitioners. This Court, however, hastens to add that as there is a dispute regarding the title, this Court cannot properly adjudicate the matter. It is for the petitioners to approach the civil Court for declaration of title.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

08.02.2007
vs